

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to early release of retained funds and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 180, “Public Improvement Quotation Process for Governmental Entities for Vertical Infrastructure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 314.1A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 26 and 573 and section 314.1A and 2018 Iowa Acts, House File 2233.

Purpose and Summary

This proposed rule making reflects the changes needed in Chapter 180 due to 2018 legislation concerning the early release of retained funds. The proposed amendments implement the changes made by 2018 Iowa Acts, House File 2233, which repealed Iowa Code section 26.13 and added new Iowa Code section 573.28.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 5, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

February 7, 2019
11 a.m.

Department of Transportation
Administration Building
First Floor, North Conference Room
800 Lincoln Way
Ames, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—180.10(314) as follows:

761—180.10(314) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity ~~is required to~~ shall also retain funds from each payment to the contractor for the benefit of subcontractors and suppliers, and apply or release such funds, as provided in required by Iowa Code chapter 573, and is required to release retained funds upon substantial completion of the work, as provided in Iowa Code section 26.13.

ITEM 2. Amend **761—Chapter 180**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 26.2, ~~26.13~~, 26.14, 314.1A, 314.1B, ~~and 573.2, and 573.28.~~